

IFW



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor Application of:		:		
Lhote et al.		:	Art Unit:	Not yet assigned
Serial No.	10/564,366	:	Examiner:	Not yet assigned
I.A. Filing Date:	12/06/2004	:	Atty Dkt:	6222.480
For:			PRESSURE RELIEF EXHAUST BRAKE	

**RENEWED PETITION UNDER 37 C.F.R. 1.47(a)
FOR NONSIGNING INVENTOR**

Assistant Commissioner for Patents
Customer Service Window, Mail Stop PCT
Office of PCT Legal Administration
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Dear Sir:

Applicants respectfully request reconsideration of the Petition by Gabriel Gavril on his behalf, and on behalf of non-signing co-inventor Andre F. Lhote, filed July 10, 2006.

Applicants' Petition was denied without prejudice by Decision issued January 31, 2007. In the Decision, the PCT Legal Examiner requested clarification as to whether any of the letters were sent to Mr. Lhote's last known address. The Examiner also objected to the statements by Ms. Cathy Hailey, which were described in an email from Ryan Marander. The Examiner suggested that a statement from Ms. Hailey would be appropriate.

In response to the Decision on Petition, Applicants submit a Supplemental Declaration of William C. Schrot clarifying which letters were sent to Mr. Lhote's last known address, and providing an explicit statement of the last known address of Mr. Lhote.

In addition, Applicants submit the Declaration of Catherine Anne Ross, to whom Mr. Lhote stated that he would not sign the declaration. Specifically, Mr. Lhote hand-delivered a Federal Express package containing a copy of the application and declaration to Ms. Ross, and stated to Ms. Ross, "I can't sign this." *See Ross Dec.*, ¶ 2. Note that at the time Mr. Lhote handed the package to Ms. Ross, and at the time the original Petition was filed in July 2006, Ms. Ross's last name was "Hailey". *See Ross Dec.*, ¶ 3. Thus, the "Ms. Hailey" referenced in Applicants' initial Petition is the same person as "Ms. Ross."

In addition to Federal Express's delivery of the June 21, 2006 package to Mr. Lhote's last known address, the undersigned also sent an additional copy of the application and declaration to Mr. Lhote's last known address by letter dated July 5, 2006. *See 7/10/2006 Schrot Dec. at Exhibit G.* Mr. Lhote was again asked to sign the declaration, and return same to the undersigned's office in the postage-paid addressed envelop provided. *Id.*

Following the Decision on Petition, an additional copy of the application and declaration were sent Mr. Lhote's last known address by Federal Express by letter dated February 23, 2007. *See Supp. Schrot Dec. at Exhibit I.* Mr. Lhote was again asked to sign the declaration, and return same to the undersigned's office in the postage-paid addressed envelop provided. *Id.*

Further correspondence was sent to Mr. Lhote's last known address by Federal Express by letter dated March 12, 2007, specifically asking Mr. Lhote to sign and date the enclosed declaration, and return to the undersigned's office no later than March 23, 2007. *See Supp. Schrot Dec. at Exhibit J.*

Thus, at least three copies of the application were sent to Mr. Lhote's last known address of 4992 Byrne Road, Burnaby, British Columbia, V5J 3H9, Canada, by letters dated June 21, 2006, July 5, 2006, and February 23, 2007.

At least four copies of the declaration were sent to Mr. Lhote's last known address in the letters dated June 21, 2006, July 5, 2006, February 23, 2007, as well as a final letter dated March 12, 2007. In all of these letters, it was requested that Mr. Lhote sign and date the declaration, and return to the undersigned's office in a post paid, addressed envelop provided.

Following receipt of the June 21, 2006 letter and Federal Express package (containing a copy of the application and declaration), Mr. Lhote hand-returned same to Pacbrake and stated to Ms. Ross (formerly Ms. Hailey), "I can't sign this." *See Ross Dec., ¶ 2.*

It is without question that Mr. Lhote has received numerous copies of the application and declaration at his last known address, and refuses to sign the declaration despite having already assigned his rights in the invention to Jenera (the parent of Pacbrake). *See 7/10/2007 Schrot Dec. at ¶¶5-6; Ross Dec. at ¶ 1.* He has personally stated this to Ms. Ross (formerly Ms. Hailey). *See Ross Dec., ¶ 2.*

The Examiner stated that the supplemental Declaration signed by inventor Gabriel Gavril on behalf of Andre Lhote was acceptable. In addition, the Examiner acknowledged payment of the Petition fee.

In light of the circumstances, Applicant submits that all requirements under 37 C.F.R. §1.47(a) have been met. Accordingly, Applicants hereby renew their Petition and request that Mr. Gavril be permitted to make the application on behalf of Mr. Lhote pursuant to 37 C.F.R. §§ 1.497(b) and 1.47(a).

Reconsideration of Applicant's Petition is requested. It is believed that no fees are due with this submission. Should that determination be incorrect, then please debit Account No. 50-0548 and notify the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. C. Schrot', written over a horizontal line.

William C. Schrot
Registration No. 48,447
Attorney for Applicants

Berenato, White & Stavish, LLC
6550 Rock Spring Drive, Suite 240
Bethesda, Maryland 20817
Telephone: (301) 896-0600
Facsimile: (301) 896-0607
Email: wschrot@bwsiplaw.com



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	:		
Lhote et al.	:	Art Unit:	Not yet assigned
Serial No. 10/564,366	:	Examiner:	Not yet assigned
I.A. Filing Date: 12/06/2004	:	Atty Dkt:	6222.480
For:			PRESSURE RELIEF EXHAUST BRAKE

**SUPPLEMENTAL DECLARATION OF WILLIAM C. SCHROT IN SUPPORT
OF RENEWED PETITION FOR NON-SIGNING INVENTOR**

I, William Schrot, hereby declare as follows:

1. I am an attorney associated with the law firm of Berenato, White & Stavish, LLC, and am familiar with the above-captioned application.
2. By letter dated June 21, 2006, I sent a copy of the application and declaration to Mr. Lhote at an address at 2992 Byrne Road, Burnaby, British Columbia, V5J 3H9, Canada, via Federal Express. *See 7/10/2006 Schrot Dec. at Exhibit E.*
3. Our firm was contacted by Federal Express indicating that the address for the letter dated June 21, 2006 was incorrect. I provided a corrected address of 4992 Byrne Road, Burnaby, British Columbia, V5J 3H9, Canada, to Federal Express. *See 7/10/2006 Schrot Dec. at Exhibit F.*
4. Mr. Lhote's last known address is 4992 Byrne Road, Burnaby, British Columbia, V5J 3H9, Canada.
5. Federal Express re-delivered the June 21, 2006 letter, including a copy of the application and declaration, to Mr. Lhote's last known address. *See 7/10/2006 Schrot Dec. at Exhibit F.*
6. I spoke with Ms. Catherine Anne Ross by telephone conference on March 23, 2007. Ms. Ross stated to me that she recalled Mr. Lhote hand-delivering a Federal Express package to her in late June 2006 containing a copy of the application and declaration, and stating to her "I can't sign this." Ms. Ross's declaration attesting to same is submitted herewith. *See Ross Dec.*

7. Another copy of the application and declaration were sent to Mr. Lhote's last known address by Federal Express by letter dated July 5, 2006, wherein Mr. Lhote was again asked to sign and date the declaration and return same to the undersigned's office in the postage paid, addressed envelop provided. *See 7/10/2007 Schrot Dec. at Exhibit G.*
8. Another copy of the application and declaration were sent to Mr. Lhote's last known address by Federal Express by letter dated February 23, 2007, wherein Mr. Lhote was again asked to sign and date the declaration and return to the undersigned's office in the postage paid, addressed envelop provided. *See Exhibit I attached hereto.*
9. An additional copy of the declaration was sent to Mr. Lhote's last known address by Federal Express by letter dated March 12, 2007, wherein Mr. Lhote was again asked to sign and date the declaration and return to the undersigned's office in the postage paid, addressed envelop provided no later than March 23, 2007. *See Exhibit J attached hereto.*
10. To date, Mr. Lhote has failed to provide an executed declaration for the subject application.
11. Mr. Lhote has expressly stated to Pacbrake's Purchasing Manager that he will not sign the declaration. *See Ross Dec.*
12. In light of Mr. Lhote's failure to sign the declaration, we request that Mr. Gavril be permitted to proceed with application Serial No. 10/564,366 on behalf of non-signing co-inventor Andre F. Lhote pursuant to 37 C.F.R. §§ 1.497(b) and 1.47(a).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



William C. Schrot

Dated: March 26, 2007



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Lhote et al.	:	Art Unit:	Not yet assigned
Serial No.	10/564,366	:	Examiner: Not yet assigned
I.A. Filing Date:	12/06/2004	:	Atty Dkt: 6222.480
For:	PRESSURE RELIEF EXHAUST BRAKE		

EXHIBIT I

BERENATO, WHITE & STAVISH

ATTORNEYS AT LAW

A LIMITED LIABILITY COMPANY

6550 ROCK SPRING DRIVE

SUITE 240

BETHESDA, MARYLAND 20817

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P. O. Box 315
WATERFORD, VA 20197

OF COUNSEL
* NOT ADMITTED IN MD

JOSEPH W. BERENATO, III *
JOHN M. WHITE *
MATTHEW W. STAVISH
MATTHEW F. JOHNSTON
WILLIAM C. SCHROT *
DAVID S. TAYLOR

GEORGE AYVAZOV, PH.D.
REG. PATENT AGENT



February 23, 2007

Via Federal Express

Mr. Andre F. Lhote
4992 Byrne Road
Burnaby, British Columbia V5J 3H9
Canada

Re: International Patent Application No. PCT/CA04/02080
(U.S. Application Serial No. 10/564,366)
Title: Pressure Relief Exhaust Brake
Our Ref: 6222.480

Dear Mr. Lhote:

Several copies of the above-referenced patent application were previously sent to you via Federal Express, along with copies of a Declaration for your signature as co-inventor.

We have not yet received the executed Declaration. Please sign and date the Declaration, and return the executed Declaration to our office.

For your convenience, enclosed is another copy of the subject patent application, along with another copy of the Declaration. Also enclosed is a postage paid, addressed envelop in which the executed Declaration may be sent. If you are unwilling to sign the Declaration, please so state by written correspondence and return to our office in the enclosed postage paid envelop.

Should you have any questions regarding the above, please do not hesitate to contact our office.

Very truly yours,

William C. Schrot

Enclosures

From: Origin ID: OBTA (301) 896-0600
 William Schrol
 Berenato, White & Stavish
 6550 Rock Spring Drive
 Suite 240
 Bethesda, MD 20817
 UNITED STATES



CL 5012 101/2/123

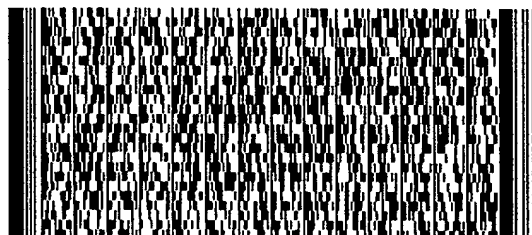
SHIP TO: (301) 896-0600

BILL SENDER

Andre F. Lhote

4992 Byrne Road

Burnaby, BC V5J3H9
 CA



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 SIGN: William Schrol
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Refer to the Convention to determine the claims period for your shipment. The right to damages against us shall be extinguished unless an action is brought within two years, as set forth in the Convention. FedEx is not obligated to act on any claim until all transportation charges have been paid. The claim amount may not be deducted from the transportation charges. If the recipient accepts the shipment without noting any damage on the delivery record, FedEx will assume the shipment was delivered in good condition. In order for us to consider a claim for damage, the contents, original shipping carton and packing must be made available to us for inspection. **MANDATORY LAW.** Insofar as any provision contained or referred to in this Air Waybill may be contrary to any applicable international treaties, laws, government regulations, orders or requirements such provisions shall remain in effect as a part of our agreement to the extent that it is not overridden. The invalidity or unenforceability of any provisions shall not affect any other part of this Air Waybill. Unless otherwise indicated, **FEDERAL EXPRESS CORPORATION, 2005 Corporate Avenue, Memphis, TN 38132, USA,** is the first carrier of this shipment. Email address located at www.fedex.com

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In re Application of:	:		
Lhote et al.	:	Art Unit:	Not yet assigned
Serial No.	10/564,366	:	Examiner: Not yet assigned
I.A. Filing Date:	12/06/2004	:	Atty Dkt: 6222.480
For:	PRESSURE RELIEF EXHAUST BRAKE		

EXHIBIT J

BERENATO, WHITE & STAVISH

JOSEPH W. BERENATO, III*
JOHN M. WHITE*
MATTHEW W. STAVISH
MATTHEW F. JOHNSTON
WILLIAM C. SCHROT*
DAVID S. TAYLOR
DANIEL E. VALENCIA*
SHANNON D. SCHEMEL*

GEORGE AYVAZOV, PH.D.
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VIRGINIA OFFICE
P. O. Box 315
WATERFORD, VA 20197

* OF COUNSEL
* NOT ADMITTED IN MD

March 12, 2007

Via Federal Express

Mr. Andre F. Lhote
4992 Byrne Road
Burnaby, British Columbia V5J 3H9
Canada

Re: International Patent Application No. PCT/CA04/02080
(U.S. Application Serial No. 10/564,366)
Title: Pressure Relief Exhaust Brake
Our Ref: 6222.480

Dear Mr. Lhote:

Referring to our letter of February 23, 2007, we have not yet received the executed Declaration previously sent.

We again request that you sign and date the Declaration, and return same to our office by **March 23, 2007**. A copy of the Declaration is enclosed.

Should you have any questions regarding the above, please do not hesitate to contact our office.

Very truly yours,

A handwritten signature in black ink, appearing to read "W. C. Schrot".

William C. Schrot

Enclosure


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Ship to:	Andre F. Lhote 4992 Byrne Road Burnaby, BC V5J3H9 CA 301-896-0600	Package type: Pickup/Drop Off: Weight: Dimensions: Declared value: Shipper account number:	FedEx Envelope give to scheduled courier at my location 1 LBS 0 x 0 x 0 in 10 USD 20062207
From:	Joseph Berenato, III Berenato, White, & Slavish 6550 Rock Spring Drive Suite 240 Bethesda, MD 20817 US 3018960600	Bill transportation to: Bill duty/taxes to: Courtesy rate quote:* Discounted variable % Special services: Shipment Purpose: Shipment type:	20062207 0 33 0.00 Express
Tracking no:	798627614600		
Your reference:	6222.480		
Ship date:	Mar 13 2007		
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Lhote et al.	Art Unit: Not yet assigned
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I.A. Filing Date: 12/06/2004	Atty Dkt: 6222.480
For:	PRESSURE RELIEF EXHAUST BRAKE

**DECLARATION OF CATHERINE ANNE ROSS IN SUPPORT
OF PETITION FOR NON-SIGNING INVENTOR**

I, Catherine Anne Ross, hereby declare as follows:

1. I am currently the Purchasing Manager of Pacbrake Company of Surrey, British Columbia, a wholly owned subsidiary of Jenara Enterprises Ltd., also of Surrey, British Columbia.
2. In or around late June, 2006, Mr. Andre Lhote, handed me a Federal Express package containing a copy of the above-referenced application, stating "I can't sign this". After handing me the package, Mr. Lhote left.
3. At the time Mr. Lhote handed me the package, my last name was "Hailey".
4. I have been advised that Mr. Lhote refuses to sign the declaration for the above-referenced patent application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 3/23/07

Catherine Ross
Catherine Anne Ross